



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R8-ES-2022-0034; FXES11140800000-223-FF08ECAR00]

Endangered and Threatened Species; Incidental Take Permit Application for the Desert Tortoise; Draft Habitat Conservation Plan and Draft Environmental Assessment; Bellefield Solar Energy Project, Kern County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from 8minute Solar Energy for an incidental take permit under the Endangered Species Act of 1973, as amended. The permit would authorize take of the federally threatened desert tortoise (*Gopherus agassizii*) incidental to otherwise lawful activities associated with construction, operation, maintenance, and decommissioning of the Bellefield Solar Energy Project. We invite comments on the draft habitat conservation plan and the draft environmental assessment, which we have prepared pursuant to the National Environmental Policy Act. We will take comments into consideration before deciding whether to issue an incidental take permit.

DATES: To ensure consideration, please submit your written comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: *Obtaining Documents:* The application, application supporting materials, and any comments and other materials that we receive will be available for public inspection at <https://www.regulations.gov> in Docket No. FWS- R8-ES-2022-0034.

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

- *Internet:* <https://www.regulations.gov>. Search for and submit comments on Docket No. FWS-R8-ES-2022-0034.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS-R8-ES-2022-0034; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We request that you send written comments by only one of the methods described above.

FOR FURTHER INFORMATION CONTACT: Ray Bransfield, Fish and Wildlife Biologist, by mail at the Palm Springs Fish and Wildlife Office, 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262; by phone at 805-677-3398; or via email at ray_bransfield@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We have received an application from 8minute Solar Energy (applicant) for an incidental take permit under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The application addresses the potential take of the federally threatened desert tortoise, incidental to otherwise lawful activities at the Bellefield Solar Energy Project (project), as described in the applicant’s draft habitat conservation plan. The proposed project would be located east of the town of Mojave in Kern County, California.

Background

Section 9 of the ESA (16 U.S.C. 1538) and Federal regulations promulgated pursuant to section 4(d) of the ESA (16 U.S.C. 1533) prohibit the take of endangered and threatened animals without special exemption. Under section 10(a)(1)(B) of the ESA (16 U.S.C. 1539), we may issue permits to authorize take of listed fish and wildlife species

that is incidental to, and not the purpose of, carrying out an otherwise lawful activity.

Regulations governing permits for endangered and threatened species are set forth in title 50 of the Code of Federal Regulations (CFR) at part 17, sections 17.22 and 17.32.

The National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) requires Federal agencies to analyze their proposed actions to determine whether the actions may significantly affect the human environment. In the NEPA analysis, the Federal agency will identify the effects, as well as possible mitigation for effects on environmental resources, that could occur with the implementation of the proposed action and alternatives. The Federal action in this case is the Service's proposed issuance of an incidental take permit for the federally threatened desert tortoise.

Permit Application

The applicant has submitted a draft habitat conservation plan that describes the activities covered by the permit, such as the construction of the solar field and generator tie-in line. To minimize the risk of incidental take, the applicant would employ qualified biologists to translocate desert tortoises to a safe location off site. The conservation plan also includes adaptive management to allow for maintaining the protection of desert tortoises if necessary. To mitigate the impact of the incidental take, the applicant proposes to fund the enhancement of desert tortoise habitat within a retired grazing allotment on lands managed by the Bureau of Land Management.

The draft conservation plan and the draft environmental assessment consider alternatives to the proposed action, including a no action alternative.

The Service prepared a draft environmental assessment to evaluate the impacts of issuing the proposed incidental take permit on the human environment, consistent with the purpose and goals of NEPA and pursuant to the Council on Environmental Quality's implementing NEPA regulations at 40 CFR parts 1500–1508. Additionally, the draft environmental assessment was prepared consistent with the Department of the Interior

NEPA regulations (43 CFR part 46); longstanding Federal judicial and regulatory interpretations; and Administration priorities and policies, including Secretary's Order No. 3399, which requires bureaus and offices to use "the same application or level of NEPA that would have been applied to a proposed action before the 2020 Rule went into effect."

Public Comments

If you wish to comment on the draft conservation plan and draft environmental assessment, you may submit comments by one of the methods in **ADDRESSES**.

Public Availability of Comments

You may submit comments by one of the methods shown under **ADDRESSES**. All comments and materials we receive in response to this request will become part of the decision record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We issue this notice pursuant to section 10(c) of the ESA (16 U.S.C. 1539) and its implementing regulations (50 CFR 17.22), and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.305).

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